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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,508	10/27/2003	Todd L. Hargroder	P-7519(CIP)	2670
30553	7590	04/29/2005	EXAMINER	
GUNN, LEE & HANOR 700 N. ST. MARY'S STREET SUITE 1500 SAN ANTONIO, TX 78205			LERNER, AVRAHAM H	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/694,508

Applicant(s)

HARGRODER, TODD L.

Examiner

Avraham Lerner

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 11-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Juan (U.S. Patent No. 6,311,805).

Juan discloses a manual braking system comprising all elements as claimed, including caliper type brakes *mountable* to a wheelchair; a manual brake actuator; a braking cable connected from the caliper type brakes to the manual braking actuator over a pulley, the pulley being mountable on the wheelchair and providing substantially equal force on each of the caliper type brakes and wherein the axis of the pulley is displaceable.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3611

4. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartmann (U.S. Patent No. 4,826,190) in view of Adams (U.S. Patent No. 6,409,195).

Hartmann discloses a manual braking system comprising brakes mountable to a wheelchair; a manual brake actuator (lever 151) mountable to the wheelchair; a braking cable (156L, 156R) connected from the brakes to the manual braking actuator over a pulley, the pulley being mountable on the wheelchair and providing substantially equal force on each of the brakes; the axis of the pulley is displaceable, a lever pivotally mounted to the wheelchair whereby the lever provides a variable braking force to the pulley, and a linking element (153) connected to both the pulley and the lever causing the pulley to displace when the lever is rotated.

Hartmann fails to disclose that the brakes are caliper type brakes, and that the caliper type brakes exert a braking force specifically to disks.

Adams discloses that it is known in the art to provide a wheelchair (100) having a single braking mechanism with caliper type brakes (see column 4, lines 33-42) which exert a braking force to wheel discs (see Figs. 2-3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the braking system of Hartmann with the caliper and disc mechanisms of Adams in order to improve the braking efficiency of the vehicle as a whole. Caliper and disc brake assemblies are common and known in the art to provide reliable and smooth braking to road vehicles while producing less heat and lasting longer than alternative assemblies, and therefore such a modification would have been obvious to one of ordinary skill. Note also that although Hartmann does not explicitly refer to his vehicle as a "wheelchair", it is

considered one by the examiner in that the term "wheelchair" is sufficiently broad to encompass a large variety of vehicle structures, as reinforced by Adams.

### *Response to Arguments*

5. Regarding applicant's arguments that Juan does not meet the requirements for anticipation because it does not teach the claimed braking system on a wheelchair, it is noted that "the absence of a disclosure relating to function does not defeat the finding of anticipation. It is well settled that the recitation of a new intended use for an old product does not make a claim to that old product patentable." *In re Schreiber* (CAFC) 44 USPQ2d 1429. In the instant case, the braking system need only be mountable on a wheelchair, and since there is no evidence that the braking system of Juan could not be mounted on a wheelchair, the rejection is maintained.

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kanamori (U.S. Patent No. 4,588,200) and Wiener (U.S. Patent No. 4,548,421) disclose braking assemblies having a single cable transmitting equal braking force to two wheels.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avraham Lerner whose telephone number is (571) 272-6647. The examiner can normally be reached on M-F (8:15-5:45) first Wednesday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3611

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**AVRAHAM LERNER**  
**PRIMARY EXAMINER**

*A. Lerner 4/27/05*  
April 27, 2005